

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,** :
Plaintiff, :
v. :
CITY OF PHILADELPHIA, :
Defendant. :
: Civil Action No. 11-6533

JOINT STATEMENT OF STIPULATED UNDISPUTED MATERIAL FACTS

The parties hereby jointly stipulate to the following facts:

1. Philadelphia International Airport (the “Airport”) is owned and operated by Defendant City of Philadelphia (the “City”).
2. Before March 2012, the City had no written policy governing advertising at the Airport.
3. In January 2011, Plaintiff National Association for the Advancement of Colored People (“NAACP”) submitted an advertisement for display at the Airport.
4. The advertisement submitted by the NAACP was the following:



5. The City rejected the NAACP advertisement.

6. On October 19, 2011, the NAACP filed its initial complaint with this Court, naming the City and Clear Channel Outdoor Holdings (“Clear Channel”) as defendants.

7. In March of 2012, the City’s Division of Aviation issued a comprehensive set of changes to Philadelphia International Airport/PHL (“Airport”) regulations (“Regulations”). The Regulations address, among other things, operations, airfield vehicle operations, fire safety, security, tenants, and picketing, leaflet distribution, and solicitation at the Airport.

8. The Regulations also were revised to include the following:

Advertisements.

1. No person shall post, distribute, or display any Advertisement at the Airport without the express written consent of the CEO and in such manner as may be prescribed by the CEO.

2. The CEO will not accept or approve any of the following Advertisements:

- a) Advertisements that **do not** propose a commercial transaction;
- b) Advertisements relating to the sale or use of alcohol or tobacco products;
- c) Advertisements that contain sexually explicit representations and/or relate to sexually oriented businesses or products; and/or
- d) Advertisements relating to political campaigns.

3. The City shall have the right to post or cause to be posted its own advertising promoting:

- a) Air Service;
- b) The use of Airport related services;
- c) The greater Philadelphia area and economy;
- d) Philadelphia tourism initiatives; and
- e) Other City initiatives or purposes.

9. On June 1, 2012, the NAACP, the City, and Clear Channel entered into a stipulation voluntarily dismissing Clear Channel as a defendant, and this Court entered that order on June 6, 2012.

10. On June 21, 2012, the NAACP and the City filed a stipulation to settle NAACP’s claims relating to the City’s rejection of the “Misplaced Priorities” Advertisement. The City agreed to place the “Misplaced Priorities” advertisement for a period of three months at two locations at the Airport, and to pay the NAACP \$8,800 in attorney’s fees. The parties also agreed that the NAACP would file an amended complaint “to challenge the current advertising policy at the Philadelphia International Airport.” June 21, 2012, Stipulation at ¶ 3.

11. This Court entered its order confirming the stipulation on July 23, 2012.

12. On August 2, 2012, the NAACP filed its amended complaint.

13. Since at least March 2012, when a private entity has wanted to submit an advertisement for display at the Airport, it has been required to submit the advertisement to Clear Channel. Clear Channel submits those proposed advertisements to the Airport.

14. From March 8, 2012 through the present, Clear Channel has acted as the City's agent when Clear Channel has accepted and/or rejected advertisements that were submitted for display at the Airport. Any acceptance and/or rejection of an advertisement by Clear Channel pursuant to the terms of the Airport Advertising Policy will be deemed to have been done by the City for purposes of this lawsuit.

15. Since March 2012, the City has posted its own advertisements at the Airport.

Date: November 1, 2013

s/ Fred T. Magaziner

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